IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 4232 of 2006(M)

ST.194/2005 of JUDL. MAGISTRATE OF FIRST CLASS-III, KOCHI

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REVN. PETITIONER/COMPLAINANT:

M/S. BELL LEASING AND HIRE PURCHASE LTD.,
40/9715, BHAGEERATHA SANTHWANA,
CHITTOOR ROAD, KOCHI-18,
REP. BY ITS POWER OF ATTORNEY HOLDER
JOY JOHN, S/O.JOHN, AGED 34.

BY ADV. SRI.T. RAJESH

RESPONDENTS/STATE & ACCUSED:

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1. THE STATE OF KERALA,
   REP. BY THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. PRASANTHAN V.,
   PANIPURAYIL PUTHENVEEDU,
   KAPPIL EAST, KRISHNAPURAM P.O.,
   KAYAMKULAM.

R1 BY PUBLIC PROSECUTOR ADV. SHRI KAMMAPPU.

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 06/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T. SANKARAN, J.

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CRL. R.P. 4232 OF 2006

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Dated this the 6th December , 2006

O R D E R

In the manner in which I propose to dispose of this revision, I do not think it is necessary to issue notice to the second respondent / complainant as he has not entered appearance before the trial court . The order impugned in this revision is the order dated 27.09.2006, by which, the complaint filed by the petitioner was dismissed under section 204(4) of the Code of Criminal Procedure.

2. It is stated in the order impugned that the complainant was absent and there was no representation. It is also stated that no steps were seen taken by the complainant. It is stated in the Memorandum of Revision that the complaint was filed on 21.12.2004 before the court of the Chief Judicial Magistrate, Ernakulam . It is further stated that on 18.02.2005, the complainant was present and he had produced stamped envelopes for issuing summons by post. On 18.02.2005, the case was made over to the court of the Judicial Magistrate of the First Class-III, Kochi, where the

case was posted to 16.04.2005 for appearance of the complainant. On 16.04.2005, there was no sitting and the case was adjourned to 07.06.2005. The complainant could not appear on that day due to personal inconvenience and an application was filed for condoning his absence. The case was adjourned to 12.07.2005. On that day, though the complainant was present, there was no sitting. On the next posting date, viz., 10.04.2006 also, the complainant was present and the case was adjourned to 27.09.2006 for appearance of the accused. It is stated that the complainant was under the bonafide belief that the stamped envelopes produced by him already, would be sufficient. It is also stated that the complainant did not appear on 27.09.2006 since the date was erroneously noted by the clerk as 28.09.2006.

3. It is the duty of the complainant to see that necessary steps are taken by him. The court cannot be blamed for dismissing the complaint for want of representation and for failure of taking steps. Therefore, I am not inclined to accept the contentions put forward by the petitioner. However, taking into account the facts and circumstances of the case, I am inclined to grant a last opportunity to the petitioner to appear before the trial court

and to take necessary steps. The petitioner shall appear before the trial court on 18.12.2006 and shall take all necessary steps before 20.12.2006.

In the result, the order dated 27.09.2006 is set aside. The petitioner shall appear before the trial court on 18.12.2006 and shall take necessary steps and comply with the directions issued by the court, on or before 20.12.2006. The court below shall proceed in accordance with law.

K.T. SANKARAN,
JUDGE.

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